

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-180-C - ORDER NO. 2004-158
AUGUST 10, 2004

IN RE: Davel Communications, Inc.,)	ORDER APPROVING
)	VOLUNTARY NOTICE OF
Complainant,)	DISMISSAL
)	
vs.)	
)	
BellSouth Telecommunications, Inc.,)	
)	
Respondent.)	
_____)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Voluntary Notice of Dismissal of Davel Communications, Inc. (“Davel”) requesting to dismiss its complaint against BellSouth Telecommunications, Inc. (“BellSouth”) (collectively, the “Parties”).

This action was first initiated by Davel on May 19, 2003, with the filing of a letter citing certain disputed matters, including but not limited to, the provision of directory assistance and deposit matters relating to a Master Services Agreement (“Agreement”) between Davel and BellSouth. Davel requested that the Commission review the matters set forth in Davel’s letter. To address Davel’s complaint, the Commission established the present docket and issued a 30-day Notice upon which BellSouth had to respond to the

allegations asserted by Davel. BellSouth timely filed its Response to Davel's complaint with the Commission on July 7, 2003.

On February 9, 2004, Davel submitted a Notice of Voluntary Dismissal wherein Davel dismisses the issues raised in its letter of May 19, 2003. According to Davel, circumstances have changed between the Parties since the initial filing by Davel. Davel states that it is no longer purchasing services from BellSouth under the Agreement because Davel believes that BellSouth is in breach of various requirements contained in the Agreement. In BellSouth's Response, according to Davel, BellSouth states that deposits on account should be applied against any undisputed remaining balances due from Davel, and Davel states that this proposed procedure from BellSouth is satisfactory to Davel.

Under Rule 41(a)(2), "except as provided in [Rule 41(a)(1)], an action shall not be dismissed at the plaintiff's insistence save upon order of the court and upon such terms and conditions as the court deems proper."

Finding that Davel desires to dismiss its complaint against BellSouth voluntarily, the Commission finds it appropriate to grant Davel's Notice of Voluntary Dismissal. We further find that approval of Davel's dismissal does not warrant any special terms or conditions to be imposed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Davel Communication Inc.'s Notice of Voluntary Dismissal of Davel's complaint against BellSouth Telecommunications Inc. is hereby granted.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)